

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY

3 IN RE: VALSARTAN, LOSARTAN, AND CIVIL ACTION NUMBER:
4 IRBESARTAN PRODUCTS LIABILITY 1:19-md-02875-RBK
5 LITIGATION CASE MANAGEMENT CONFERENCE
6 VIA TELECONFERENCE

7
8 Mitchell H. Cohen Building & U.S. Courthouse
9 4th and Cooper Streets
10 Camden, New Jersey 08101
11 Wednesday, February 1, 2023
12 Commencing at 1:00 p.m.

13 **B E F O R E:** THE HONORABLE ROBERT B. KUGLER,
14 UNITED STATES DISTRICT JUDGE

15 **A P P E A R A N C E S:**

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Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription.

A P P E A R A N C E S: (Continued)

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1 (PROCEEDINGS, held via teleconferencing before the
2 Honorable Robert B. Kugler, at 1:00 p.m. as follows:)

3 THE COURT: Hello. It's Judge Kugler. Good
4 afternoon, everybody.

5 MR. SLATER: Hello, Judge.

6 COUNSEL: Good afternoon, Judge.

7 THE COURT: What's the good word? I hope everybody's
8 doing well and is avoiding COVID and everything else that's
9 going around.

10 MR. SLATER: We're mostly just happy for the Eagles'
11 fans for having their moment in the sunlight.

12 (Laughter.)

13 THE COURT: Yeah. Yeah. Yeah. Well, thank you.
14 Giants' fans ought to be proud of their team. They were awful
15 last year and this year they won a playoff game, so, I mean,
16 that's pretty good progress.

17 MR. SLATER: Thank you.

18 (Laughter.)

19 (Discussion was held off the record.)

20 THE COURT: Anyway, Mr. Harkins, are you on the phone
21 for these applications?

22 MR. HARKINS: Yes. Good afternoon, Your Honor. This
23 is Steve Harkins with Greenberg Traurig for the Teva defendants
24 and the Joint Defense Group.

25 THE COURT: All right. On the Order to Show Cause

1 list, there are the first four, Conley, Bailey, Amoia, and
2 Bishop, you want me to dismiss the Orders to Show Cause because
3 they've been worked out, correct?

4 MR. HARKINS: That's correct, Your Honor.

5 THE COURT: Now, the remaining ones, Lewis, Willis,
6 Barber, Knudson, and Balay, you want me to carry till the next
7 listing; is that correct?

8 MR. HARKINS: That's correct, Your Honor. No updates
9 on those listings. And we are not requesting dismissal of any
10 cases at this time.

11 THE COURT: Okay. Well, we'll move to the next. You
12 have six on the list you seek an Order to Show Cause. Any
13 changes on those?

14 MR. HARKINS: I have three updates, Your Honor. Case
15 No. 2, Beverly Thomson, Case No. 3, Robert Casper, and Case No.
16 5, Jacqueline Carter on behalf of the Estate of James Carter,
17 those three have been resolved and can be removed. So
18 defendants will only be requesting Orders to Show Cause
19 returnable at the next Case Management Conference in the
20 remaining three cases, 1, 4, and 6 on Table A.

21 THE COURT: All right. Anybody here on number 1,
22 Czajkowski?

23 MR. HOBBS: Your Honor, this is David Hobbs with
24 Fleming, Nolen & Jez.

25 THE COURT: Yeah.

1 MR. HOBBS: So we actually submitted an amended fact
2 sheet just recently, I think a couple weeks ago. The only
3 deficiency listed was meeting medical expenses. We provided
4 expenses for hospital and the treating providers. So I'm not
5 sure if they're still in --

6 THE COURT: Mr. Harkins, do you have any information
7 on that?

8 MR. HARKINS: Your Honor, my understanding from our
9 team is that there is still missing medical expense information
10 for payments from an insurance company. Obviously consistent
11 with our practice in other cases, as long as this information
12 is provided, we won't move for dismissal of this case based on
13 this expense item alone. But I do understand there is still an
14 outstanding deficiency, so we would like to move forward to
15 list the case for the next Case Management Conference while
16 that's being resolved.

17 THE COURT: All right. Let's list it for an Order to
18 Show Cause for now. And obviously, as in all these previous
19 weeks and months, if it's been worked out, then we can dismiss
20 the Order to Show Cause 30 days from now, okay?

21 MR. HOBBS: Thank you, Your Honor.

22 THE COURT: All right. Sheri Barone from the Stark &
23 Stark firm. Anybody want to be heard on that?

24 (No response.)

25 THE COURT: Apparently not. So that will be listed

1 for an Order to Show Cause.

2 Elie Greene, the Serious Injury Law Group. Anybody
3 want to be heard on that?

4 (No response.)

5 THE COURT: No? So that will be listed for an Order
6 to Show Cause at the next one.

7 And then we have 7, 8, 12, that you seek to list next
8 time. Any changes on those?

9 MR. HARKINS: Two updates, Your Honor. Number 7,
10 Kenneth Mintz, and Number 8, the Estate of James Huse, has all
11 been resolved. So we will remove those. We would simply carry
12 the other ten cases forward on the agenda for next month's CMC.

13 THE COURT: Okay. Number 7 and 8 have been resolved.
14 They'll be removed. The others will be listed for another
15 listing the next Case Management Conference.

16 All right. Mr. Harkins, anything else on your list?

17 MR. HARKINS: Nothing from the defense, Your Honor.

18 THE COURT: Anybody else have anything they want to
19 raise at this moment?

20 (No response.)

21 THE COURT: Okay. Let's talk about what's coming up.
22 I expect to have your class action motion opinions done, I'm
23 hoping, next week; but they're coming out relatively soon.

24 I talked last time about we have to start focusing on
25 a trial in early summer. I want to have a trial logistics

1 conference on April 26th at 2:00 p.m. in the courtroom. All of
2 you who are going to be involved in that trial can be there.
3 We will talk about how I conduct trials. I'll give you a
4 little preview of that. I use the modified -- I assume we're
5 going to have a jury trial, unless everybody waives it, which I
6 doubt will happen, but assuming we do, I use the modified
7 struck-jury system for selection, which is probably not what
8 any of you have done. But I'll explain that in detail how that
9 works and how you exercise your peremptories at that time.

10 We'll talk about the number of jurors we need to
11 bring in. We'll talk about the length of trial. Obviously I
12 favor a brief trial.

13 My trial schedule runs from 9:00 a.m. to 2:00 p.m.
14 We don't take a lunch break. The jurors love it because they
15 get out of the courthouse. They get home if they have kids
16 coming home from school, things of that nature.

17 I'll talk about whether you want a unanimous verdict
18 or less than unanimous verdict. I'll talk about my preference
19 to have testimony live. But if you want, you can present
20 testimony by live-streaming it into the courtroom. We have
21 that ability, and I've used it many times. It works actually
22 very well. So you don't have to drag witnesses in from all
23 over the world. They can testify live by video. So we'll talk
24 about that.

25 I don't have paper evidence in a case. You're going

1 to have to digitize all the evidence you intend to use in your
2 trial. You'll give it to us before trial on a thumb drive or
3 something. We load it into a dedicated server. And the jurors
4 use iPads. And I'll explain how all that works. The iPads
5 don't have any access to the Internet, just to the server where
6 all your evidence is. As soon as it's introduced into
7 evidence, whatever your piece of evidence is, you know, a
8 couple of keystrokes and we load it right into the server. And
9 for the deliberations, the jurors can access it by exhibit
10 number, names, anything else.

11 So I'll explain how all that works. I'll tell you
12 how I feel about objections. I don't like speaking objections.
13 We're all good boys and girls. If you have an objection, you
14 can state your objection. I'll turn to the proponent of the
15 evidence and find out what exception you think it fits under.
16 But I don't like sidebars because the jurors hate them. But
17 anyway, we'll talk more about that.

18 I also charge the jury before your summations. We
19 will spend some time on the jury charge before we get there. I
20 work towards consensus. What we do is I will draft the
21 proposed jury instructions based upon what you give me and what
22 I think the law requires and we'll work off my draft copy.
23 And, look, if anyone says they don't want something, we take it
24 out. If anyone says they want something else, I'll put it in.
25 Again, we work towards consensus on the jury charge.

1 I follow the New Jersey state court practice.
2 Openings, the plaintiff goes first and defendant goes last; and
3 we flip that for summations. Defense goes first, the plaintiff
4 gets the last word because they have the burden of proof.
5 We'll talk more about that.

6 I am well aware that we're dealing with some of the
7 best lawyers in the country in this case. Consequently, you're
8 all very, very busy. But we're all going to have to bite the
9 bullet and get this thing done in the summer, sometime in June
10 probably. We'll talk about a specific date. So you're just
11 going to have to clear your calendars. I mean, if we wait for
12 everyone to clear their calendars and everybody's ready, it
13 will be ten years from now because you're all so busy. But
14 we'll figure out how to do it, okay? And I'll answer any
15 questions you have about logistics of trial at that time.

16 So let's get together in Camden April 26th at
17 2:00 p.m., and that will probably be a good day for having me
18 decide anything else that needs to be decided with orders to
19 show cause and everything else at that time, okay?

20 All right, everybody, unless there's something else,
21 I'll let you go.

22 MR. SLATER: No. Thank you very much.

23 THE COURT: All right. Thanks, everybody. We'll
24 talk to you soon.

25 MR. HARKINS: Thank you, Your Honor.

1 COUNSEL: Thank you, Your Honor.

2 MR. SLATER: Thanks. Have a great weekend.

3 (Proceedings concluded at 1:11 p.m.)

4 - - - - -
5 **FEDERAL OFFICIAL COURT REPORTER'S CERTIFICATE**
6 - - - - -

7 I certify that the foregoing is a correct transcript
8 from the record of proceedings in the above-entitled matter.

9
10 /S/John J. Kurz, RDR-RMR-CRR-CRC

February 2, 2023

11 Court Reporter/Transcriber
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| <p>MR. HARKINS: [8] 3/22 4/4 4/8 4/14 5/8 6/9 6/17 9/25 MR. HOBBS: [3] 4/23 5/1 5/21 MR. SLATER: [5] 3/5 3/10 3/17 9/22 10/2 THE COURT: [18]</p> <p>/</p> <p>/S/John [1] 10/10</p> <p>0</p> <p>07068 [1] 1/16 08101 [1] 1/9</p> <p>1</p> <p>103 [1] 1/16 12 [1] 6/7 15219 [1] 2/3 1:00 [2] 1/10 3/2 1:11 p.m [1] 10/3 1:19-md-02875-RBK [1] 1/4</p> <p>2</p> <p>2023 [2] 1/9 10/10 2500 [1] 2/7 2800 [1] 1/19 2:00 p.m [3] 7/1 7/13 9/17</p> <p>3</p> <p>30 [1] 5/20 30305 [1] 2/7 3333 [1] 2/7 38th [1] 2/3</p> <p>4</p> <p>4000 [1] 1/19 4th [1] 1/8</p> <p>5</p> <p>576-7094 [1] 1/23</p> <p>7</p> <p>7094 [1] 1/23 77056 [1] 1/19</p> <p>8</p> <p>856 [1] 1/23</p> <p>9</p> <p>9:00 a.m [1] 7/13</p> <p>A</p> <p>a.m [1] 7/13 ability [1] 7/21 above [1] 10/7 above-entitled [1] 10/7 access [2] 8/5 8/9 Actavis [2] 2/8 2/8 action [2] 1/3 6/22 actually [2] 5/1 7/21 ADAM [1] 1/15 afternoon [3] 3/4 3/6</p> | <p>3/22 Again [1] 8/25 agenda [1] 6/12 ago [1] 5/2 aided [1] 1/24 ALFANO [1] 2/2 all [19] alone [1] 5/13 also [1] 8/18 am [1] 9/6 amended [1] 5/1 Amoia [1] 4/1 another [1] 6/14 answer [1] 9/14 any [7] 4/9 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| <p>J JUDGE [4] 1/12 3/3 3/5 3/6 June [1] 9/9 jurors [5] 7/10 7/14 8/3 8/9 8/16 jury [6] 7/5 7/7 8/18 8/19 8/21 8/25 just [4] 3/10 5/2 8/5 9/10</p> <hr/> <p>K KATZ [1] 1/15 Kenneth [1] 6/10 keystrokes [1] 8/8 kids [1] 7/15 know [1] 8/7 Knudson [1] 4/6 KUGLER [3] 1/12 3/2 3/3 Kurz [3] 1/22 1/22 10/10</p> <hr/> <p>L last [4] 3/15 6/24 9/2 9/4 Laughter [2] 3/12 3/18 law [2] 6/2 8/22 lawyers [1] 9/7 LEE [1] 1/18 length [1] 7/11 less [1] 7/18 let [1] 9/21 let's [3] 5/17 6/21 9/16 Lewis [1] 4/5 LIABILITY [1] 1/4 like [3] 5/14 8/12 8/16 list [6] 4/1 4/12 5/15 5/17 6/7 6/16 listed [4] 5/3 5/25 6/5 6/14 listing [2] 4/7 6/15 listings [1] 4/9 LITIGATION [1] 1/5 little [1] 7/4 live [3] 7/19 7/20 7/23 live-streaming [1] 7/20 LLC [2] 1/15 2/8 LLP [3] 1/18 2/2 2/6 load [2] 8/3 8/8 logistics [2] 6/25 9/15 long [1] 5/11 look [1] 8/23 LOSARTAN [1] 1/3 love [1] 7/14 Ltd [1] 2/8 lunch [1] 7/14</p> <hr/> <p>M MANAGEMENT [4] 1/5 4/19 5/15 6/15 many [1] 7/21 matter [1] 10/7 MAZIE [1] 1/15 md [1] 1/4 me [4] 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